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TWENTY PAGES

SUNDAY, APRIL 2, 1899.

THE LEGITIMACY OF POWER.

The limits of authority and the legiti-
macy of power comprise a subject that
may be discussed without passion and
be considered in the pure light of rea-
son and truth. But it hardly conduces
to such consideration to dub in advance
a matter for discussion with this head-
ing: "A Great Vindication of Popular
Right." It is putting the cart before the
horse; it is a verdict before trial; a
judgment before hearing; an attempt to
prejudge and prejudice the case; and, to
impartial observers, raises a suspicion
that this labored title is to cover a fear
that somebody may mistake the thing
so dubbed as "A Great Invasion of
Popular Right." Yet that is what the
Richmond Times does in undertaking
to defend a recent decision of the Su-
preme Court of Appeals of Virginia.

This "Great Vindication of Popular
Right," as the Times calls it, is a re-
fusal of the court to obey the legisla-
ture in its efforts to restrain the courts
in exercise of the power to govern by
injunction, or in exercise of their power
to punish for alleged contempt of court;
these efforts, on part of the legislature,
seemingly to plain common people as be-
ing by for and in the name of the peo-
ple to protect the people from the arbi-
trary action of courts. There is no pre-
text on part of the Supreme Court that
the legislature violates any provision of
the Federal constitution or State con-
stitution in the act as to contempts
which it pronounces null and void; but
simply because it is the opinion of the
court that it and all other courts have
an inherent (or "divine") power, of
which no power can deprive them; that
this power is also inherited from Eng-
land, and that it is a common-law
power.

The real point is this: has a creature
of the people any power not granted by
the people, and may it disobey the will
of the people exercised constitutionally?
Or may any branch of the public ser-
vice of the people define itself and its
powers, in contempt of the people and
their laws and constitutions? Yet that
is what our Supreme Court of Appeals
has done. If it is right, then the Gov-
ernor or Executive Department, may
define that department and do as it
may think "necessary and essential,"
without constitutional warrant, and
even in contempt of the constitution
and the law. Or the legislature may do
the same, notwithstanding the fact that
the court says to the contrary, for it
may impeach the court, or its judges,
and turn them out; or it may abolish
the court; or supersede it by another.

It is too late to discuss or question
the supreme and exclusive political
power of the people in this State and
country. They constitute the State;
they made it; they framed its consti-
tution, subject only to the constitution
of the United States and acts of Con-
gress passed in pursuance thereof; and
apart from or outside of our State con-
stitution, or acts passed in pursuance
thereof; has any person or agency
any power of a public sort? The 4th
clause or section of article 1st of our
State constitution says:

"All power is vested in, and conse-
quently derived from, the people; magis-
trates are their trustees and servants,
and at all times amenable to them."

And in the 16th clause or section of
the same article, it is declared:

"No government separate from, or in-
dependent of, the government of Vir-
ginia ought to be erected or estab-
lished within the limits thereof."

But our Supreme Court of Appeals
"erects" itself into a separate and in-
dependent government here! If there
was even ground for any pretext that
the act of legislature as to contempts
is unconstitutional, or in defiance of

the constitutional powers of our State
courts, we might say, as in other cases,
that this is a mere mistake, not an
usurpation; but as it is, it is a flagrant
attempt to set up within this State a
separate and independent power, su-
perior to the State, its government and
the people.

The constitution creates the courts;
but it says, article VI, section 1:
"The jurisdiction of these tribunals,
and the judges thereof, EXCEPT SO
FAR AS THE SAME IS CONFERRED
BY THIS CONSTITUTION, SHALL
BE REGULATED BY LAW." Certain-
ly, then, no court in this State can have
any power not conferred by the consti-
tution or by law. No law nor constitu-
tional provision confers any such pow-
ers as the court arrogates in this case;
and to claim "inherent" powers is only
a device to set up imperial or "divine"
rights, which are repudiated by all free
governments. To claim such powers un-
der the common law is ridiculous, as it
has no force whatever in Virginia, ex-
cept that granted it by the Code of Vir-
ginia, 1887, chapter 2, sections 2 and 3,
in which it is distinctly provided that it
shall have force "so far as it is not re-
pugnant to the principles of the bill of
rights and constitution of this State."
EXCEPT IN THOSE RE-
SPECTS WHEREIN IT IS, OR SHALL
BE, ALTERED BY THE GENERAL
ASSEMBLY."

In exercise of the sovereign will vested
in them by the people and in pur-
sue of the duty imposed upon them by
the constitution of the State, to
"regulate" the courts and judges, the
members of the General Assembly, rep-
resenting the people, enacted the fol-
lowing (section 3768 of the Code of
1887):

"The courts and judges may issue at-
tachments for contempt, and punish
them summarily, only in the cases fol-
lowing:
"First, Misbehavior in the presence of
the court, or so near thereto as to ob-
struct or interrupt the administration
of justice;
"Second, Violence or threats of vio-
lence to a judge or officer of the court,
or to a juror, witness, or party going
to, attending, or returning from the
court, or for in respect of any act or
proceeding had or to be had in such
court;

"Third, Misbehavior of an officer of
the court in his official character;
"Fourth, Disobedience or resistance
of an officer of the court, juror, witness,
or other person, to any lawful process,
judgment, decree, or order of the said
court."

Section 3771 provides that offenders of
the first class above shall not be fined
more than \$50 nor imprisoned longer
than ten days, without a jury be em-
paneled to fix the same.

Section 3772 reads as follows (and its
provisions are of vast importance to the
liberty of the citizen):

"If any person, by threats or force,
attempt to intimidate or impede a
judge, juror, witness, or an officer
of a court, or any agent, constable,
or other peace officer, or any
revenue officer, in the discharge of his
duty, or to obstruct or impede the ad-
ministration of justice in any court, he
shall be prosecuted as for a misde-
meanor and punished by fine and im-
prisonment, or either, in the discretion
of the jury."

Not content with all this, and bent on
maintaining arbitrary powers of usur-
pation and tyranny, already unlawful
and unconstitutional, the Supreme
Court of Appeals arrogantly says:

"Your pretended acts to restrain us
are null and void. We shall do as we
please. We decline to be regulated by
you."

The powers assumed by the Courts,
State and Federal, under pretexts of
contempt, as well as injunction, are
enormous and despotic and indirect vio-
lation of the provisions of Amendments
5 and 6 of the Federal constitution,
which guarantee all men "due process
of law" in all cases affecting life, lib-
erty, or property, and in all criminal
cases, trial by jury, the right to call
witnesses in their behalf, &c., and the
Bill of Rights of Virginia assure every
citizen of the State the same rights.

In the Democratic platform of 1900
"government by contempt" should be
denounced side by side with "gov-
ernment by injunction," as there are many
atrocious abuses under the pretence of
"contempt" that have no connection
with injunction; and the Legislature of
Virginia should re-enact the law as to
contempt which the Court of Appeals
of Virginia declares null and void; and
if the said court again attempt to nul-
lify it, impeach every judge concerned in
the treason.

In a letter to Thomas Ritchie, dated
December 25th, 1890, Thomas Jefferson
wrote as follows:

"The judiciary of the United States
is the subtle corps of sappers and min-
ers, constantly working under ground
to undermine the foundations of con-
federate republic. They are constructing
our constitution from a co-ordination of
a general and special government, to
a general and supreme one above."

The decision of the Court of Appeals
of Virginia is truly in line with the
progress of Imperialism.

THE INTOXICATION OF WAR.

Military conquest is very seductive in
its excitement, its chances, its prizes,
its glory. As a great game of skill
and chance, its great stakes, its risks
of life and death, its victories and de-
feats, it fascinates and allures men and
nations. But unnecessary war is a
great crime and a great horror.
If we will but consider it. Our
soldiers in the Philippines have our
strongest sympathies; we are proud of
their daring; we glory in their deeds;
we advance with them step by step,
as they drive the enemy. Even though
they be so far off, we see them in our
mind's eye; and as we read, we re-
strain ourselves with difficulty from
cheering them with our shouts.

But they are slaying and being slain;
they are wounding and being wounded;

those brown or yellow fellows, too, ill-
equipped as they are, are fighting
bravely for home and country, with a
pathetic constancy and devotion that
extort our pity and our admiration.
They, as well as our men, have moth-
ers, wives, daughters, children, fathers,
brothers and friends filled with anguish
and fear for them all day long, and
through the sleepless nights. How
many hearts are desolated by every
victory or defeat! How many homes
are destroyed! How many widows,
orphans and others are left helpless and
friendless! How much want, misery
and grief!

"The paths of glory lead but to the
grave."
Who is guiltless of his country's
blood, who sends her sons to war,
"to wade through slaughter to a
throne,
And shut the gates of mercy on man-
kind."

Like Napoleon; or like Cortez and Piz-
arro, to massacre barbarians to rob
them of their lands and gold? How
much better

"To scatter plenty o'er a smiling land,
And read their history in a nation's
eyes."

In any war, except for deliverance, or
self defence, victory and defeat are
equal calamities—unless, indeed, de-
feat may be a blessing in disguise, and
turn aside, to better things, the forces
bent on courage and rapine.

"Can tyrants but by tyrants con-
quered be,
And Freedom find no champion and no
child
Such as Columbia saw arise when she
sprung forth a Pallas, armed and un-
defiled?
Or must such minds be nourished in the
wild,
Deep in the unpruned forest, midst the
roar
Of cataracts, where nursing nature
smiled
On infant Washington? Hath earth no
more
Such seeds within her heart, or Europe
no such shore?
But France got drunk with blood to
vomit crime,
And fatal have her Saturnalia been."

Are grown the pretext for the eternal
thrall
Which rips life's tree, and dooms man's
worst—his second fall.—Lord Byron, in
Childe Harold.

Our Imperial policy has got us into
the fight over the questions as to who
shall be king of Samoa; and has plac-
ed us in a most pronounced attitude of
opposition to the self-government of the
Samoans. Samoa has a king; but he
was elected by the people; and though
he is satisfactory to the majority of
the Samoans, to the German represen-
tatives, he is not PERSONA GRATA
to the English; and so our ship, the
Philadelphia, Admiral Kautz, com-
manding, has joined the British cruis-
ers in bombarding the villages along
the coast supporting the King, Mataa-
fa. This shelling and some ensuing
fighting ashore resulted in the killing
and wounding of a number of persons,
including natives and a few English,
Germans and Americans. We have
taken to the sword, and we are likely
to have enough of it, before all's done,
—even though no war result between
any two of the great powers from this
collision at Apia.

We seem to have drifted into the
rapids of a Niagara from which nothing
can deliver us but a restoration of
the Democrats to Federal rule.

As private trusts are monopolizing
the purchase, manufacture and sale of
tobacco for private gain, at the expense
of its producers, manufacturers, deal-
ers and consumers, why should not
every State, or the United States, take
this monopoly into its own hands for
the common benefit of the government
and all the people. This is already
done in all the principal nations of Eu-
rope, if not in every one,—including
Spain, France, Italy, Germany, &c.

In view of the questions raised by
Mr. Perry Belmont, in his controversy
with Mr. W. Jennings Bryan as to the
relative merits of Democrats who eat
ten dollar dinners, and Democrats who
eat one dollar dinners, it might inter-
est the former to ascertain what has
become of the good old Jeffersonian
Democrats who could dine well on
about fifteen cents worth of "bacon
and greens."

The evidence heard so far by the
Court of Inquiry warrants the belief
that General Miles made a serious mis-
take in failing to say worse things
about the beef Commissary General
Eagan purchased and shipped to the
army.

The refinement of cruelty was reach-
ed by the St. Louis alderman who se-
lected the week before Easter as the
proper time to propose that women re-
move their hats when seated in public
edifices of any kind whatsoever.

An "entangling alliance" with Ger-
many and England has already em-
broiled the United States in a quarrel
over the control of the Samoan islands
that may possibly bring on a war of
great dimensions.

If Hon. John Sherman recovers, and
it is universally hoped he may, he can
tell us in his forthcoming recollections
how he felt when reading his own
obituary.

In 1861-'65, Mr. Seward used to limit
the war to 90 days; but it continued for
four years, or 1,460 days. Conquering
peace is slow work, if the other fellows
have pluck, guns and ammunition.

Wonder if Hanna, McKinley, or any
of their backers, think of the blood-
shed, the misery, the lives lost, the cost,
pain and destruction caused by the war
for imperial expansion?

VIRGINIAN-PILOT'S HOME STUDY GIRGLE

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DIRECTED BY PROF. SEYMOUR EATON.

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by mail, will be held at their close as a basis for the granting of Certificates.

POPULAR STUDIES IN EUROPEAN HISTORY.

V.—THE OTTOMAN TURKS.

BY SAMUEL B. HARDING, F.H.D.
Professor of History, University of In-
diana.

It was about the middle of the thir-
teenth century that the ancestors of the
Ottoman Turks emerged from the wilds
of central Asia and stepped into the
light of history. The crusades were
practically over and Jerusalem was lost
to Christianity forever; the power of
the Seljukian Turks, whose outrages
had brought on those movements, had
been broken into a number of petty
sultanates; and wandering hordes of
Mongols were striking by turns into
the heart of eastern Europe and of
western Asia.

In resisting such a Mongol horde, ac-
cording to Turkish chroniclers, the Sel-
jukian sultan of Iconium was one day
hard beset in the plains of Angora.
Suddenly a troop of horsemen appeared
on the crest of a neighboring ridge,
took in the situation, and dashed in to
the aid of the weaker party with such
effect that the Mongols were put to
flight. Turning to thank his chivalrous
rescuers, the sultan found that they
were a band of Turks, kindred to the
Seljuks, who had been dislodged from
their old home in Khorasan, and were
now, to the number of 400 families, with
their flocks and herds, wandering in
search of a new location.

In reward for their services the sultan
of Iconium settled the newcomers in
northwestern Asia Minor, with cer-
tain mountain pastures for their sum-
mer sojourn and a neighboring plain
for their residence in winter. There,
under their leader Ertogrul, they tend-
ed their flocks and warred for their
suzerain, and gradually they grew in
number, in wealth and in power. In
1288 Ertogrul died and was succeeded
by his more energetic son Othman (or

through alliance with a domestic fac-
tion in civil war. A permanent footing
was gained when Suleyman, the eldest
son of Orkhan, seized Gallipoli, in 1357,
on the destruction of the walls of that
city by an earthquake. Three years after
this step Orkhan died, leaving his
power to his son Murad (or Amurath)
the First, Suleyman having died the
year before.

EUROPEAN CONQUESTS.

Among a half-score of able generals,
Murad was himself the bravest, the
most skillful and the most zealous for
the faith. In his reign the outlying
settlements in Europe became a con-
solidated power, and the horsetail
standards penetrated as far as the Dan-
ube. In 1369 Adrianople fell into his
hands; here the Turkish capital was
established, and here it remained until
its removal to Constantinople ninety
years later. Philippopolis and the great-
er part of ancient Thrace and Macedo-
nia soon followed Adrianople, and the
only districts outside of the vicinity of
Constantinople which were now left to
the Greek empire were the lands about
Thessalonica and the ancient Pelopon-
nesus.

But the Turks soon had other enemies
to contend with besides the Greeks.
Beyond the narrowed boundaries of the
empire, in the fourteenth century, lay
the Slavie-speaking lands, Bulgaria and
Serbia, filled with peoples more war-
like and more energetic than the worn-
out Greeks; beyond these again were
the nations of central and western Eu-
rope. Alarmed at the rapid progress
of the infidel, a crusade was preached
against the Turks by Pope Urban V.,
and in response to this call the Chris-
tian princes of Serbia, Bosnia and Bul-
garia united their forces, in 1371, with
those of the king of Hungary. Over-
confidence, however, wrecked the ex-



THE OTTOMAN EMPIRE IN THE SIXTEENTH CENTURY.

Osman), from whom this people derive
their name of Osmanli, or Ottomans.
Up to this time the Ottomans had, in
the main, remained a mere pagan
horde; under Othman they embraced
Mohammedanism and were consolida-
ted into a nation. Filled with the zeal
of new converts, they then embarked
upon a career of conquest. Partly at
the expense of the Greek emperors of
Constantinople, who still ruled large
districts in Asia Minor, partly at the
expense of other Mohammedan chiefs,
the territory of the Ottomans grew
constantly larger, until at last Othman
had become the most powerful prince of
western Asia.

FROM ASIA INTO EUROPE.
Othman died in 1326. He was suc-
ceeded by his son Orkhan, by whom,
in 1330, the Greek city of Nicea—the
second city of the empire, famous as
the seat of the early councils of the
Christian church—was taken. This con-
quest brought the Turks to the shores
of the Bosphorus, across whose narrow
waters they could see the domes and
towers of Constantinople. A quarter
of a century, however, was to pass before
the Turkish power crossed that narrow
strait and gained a foothold on the Eu-
ropean continent.

Meanwhile Orkhan and his brother
(the first grand vizier of Turkish his-
tory) labored to organize his Asiatic
conquests and to improve the efficiency
of the heterogeneous forces which com-
posed his army. At this time was
formed the famous corps of Janissaries,
or "new troops." The source from
which they were drawn was of deep
significance. Every fifth year the chil-
dren of the subject Christian villages
were assembled, and from them the
Turks took one-fifth of the number,
selecting especially the sturdiest and
most promising boys, who were then
carried off to be brought up in the
Mohammedan faith; from these lads
the Janissaries were recruited. (For
three centuries this enormous drain
upon the Christian populations was
kept up, and so long as the Janissaries
continued to be recruited in this way
they constituted the most formidable
part of the Turkish army; they ended,
however, by mastering those whom
they were designed to serve, and it was
not until the present century that this
new Praetorian guard was finally got
rid of by the sultans.)

The entrance of the Turks into the
European provinces of the empire, like
that of the Saxons into Britain, came
first in the form of piratical raids, then

pedition, for on the River Maritza, near
Adrianople, the camp of the crusaders
was surprised at night by the Turks,
and the crusaders, heavy with drunken
sleep, were dispersed with terrible
slaughter.

KOSSOVO AND NICOPOLIS.

The advantage which was thus gained
by the Turks was speedily followed
up. The remainder of Thrace was
won; Bulgaria and Serbia made their
submission and agreed to become tri-
butary states. The power of the Slavs,
however, was merely bent, not broken.
In 1359 a new force of Servians, Be-
nians, Bulgarians and Wallachians was
assembled under Lazarus of Serbia,
and on June 15 they met the Turkish
forces under Murad at Kossovo. After
a long and obstinate contest, which left
the field of battle "like a tulip bed,
with its ruddy severed heads and roll-
ing turbans," the victory rested with
the Turks. Murad, however, did not
live to enjoy it; at the moment of vic-
tory he was struck by a blow from a
Serbian dagger, and, like Lazarus him-
self, he found the martyr's death which
he had sought.

With the battle of Kossovo the inde-
pendence of the Slavie states of the
Balkan peninsula comes to an end. On
the accession of Bayezid (or Bajazet)
the First, son of Murad, the humbler ti-
tle of emir is laid aside for that of sul-
tan. In this ruler the darker side of
the Turkish dominion comes into view.
Bayezid was the first to establish it as
a principle of the Ottoman succession
that a new sultan might put to death
his brothers to avoid possible rivalry
for the throne. He was the first, too,
to abandon the almost ascetic temper-
ance taught by the Koran and gave
himself up to the foul moral corrup-
tion which has characterized so many
of the later sultans. Withal, however,
Bayezid was not without the Ottoman
ability as a warrior. When a new cru-
sade against the Turks was headed by
Sigismund, king of Hungary, and an
army of 100,000 men was in 1396 march-
ed into the Turkish dominions, boasting
that "even should the sky fall, they
could uphold it with their lances,"
Bayezid justified his name of "the
thunderbolt" by the skill and energy
with which he overthrew the enemy at
the battle of Nicopolis; but the glory of
that exploit was dimmed by the mas-
sacre of 3,000 of the prisoners by which
it was followed.

The victory of Nicopolis raised the

Turkish power to a higher pitch than
it had ever before reached. Raids for
slaves and booty now began to pen-
etrate into Hungary itself, while to the
south Athens and Peloponnesus were
alike subjected to the Mohammedan
rule. More important were the attacks
which were now, for the first time,
directed against Constantinople itself.
Nothing, it was felt, could preserve the
doomed city save the active interposi-
tion of the Latin powers of the west,
and to gain this the emperor, Manuel
II, vesting all power in his nephew
and colleague, spent several years in
fruitless embassies to Italy, Paris and
London.

THE OVERTHROW AT ANGORA.

At Angora, however, not from the
west, but from the east. There in the
steppes of Asia a new Mongol empire
had slowly been forming under the fa-
mous Timur, or Tamerlane, till it
stretched from Delhi to Damascus,
from the sea of Aral to the Persian
gulf. Timur was now an old man of
nearly 70 years. Hitherto he had scrup-
ulously refrained from aggressions
upon the Ottomans, for the battles of
the faith, for they, too, were
felt to be fighting the battles of the
faith. But the power of the Turk had
steadily been growing eastward as well
as westward, and by the close of the
fourteenth century the two "scourges
of God" had come face to face in Ar-
menia and Caucasus. Under such cir-
cumstances peace was difficult to main-
tain. Mutual grounds of complaint were
found and insulting embassies were ex-
changed; at last war was declared on
the part of Timur, in 1400, by seizing
the Ottoman city of Siwas and putting
to the sword all of the inhabitants, to-
gether with one of the sons of Bayezid,
who had been placed over the city as
its governor.

To meet this new enemy Bayezid was
forced to raise the siege of Constanti-
nople and hasten to Asia. It was not
until 1402, however, that the forces of
the two sultans met. On July, 20, of
that year Timur, with a vastly su-
perior force, succeeded in entering his
adversary into the plain of Angora, the
scene of the first victory of the Otto-
mans, 150 years before, and there the
battle took place. The 30,000 Janissar-
ies, under the immediate command of
Bayezid, together with a force of Chris-
tian Servians on the left wing, fought
"like lions," as Timur admiringly said.
On the right wing, however, the Sel-
juks and Mongols from the newly con-
quered states in Asia Minor deserted to
the enemy, and the battle was lost; the
troops were remained loyal to Bayezid
were crushingly defeated and he him-
self was taken prisoner.

For eight months Bayezid lived in
captivity and then died—of chagrin, it
is said Timur survived his prisoner
only two years, but in that time he
overran the whole of the Turkish em-
pire in Asia, occupied its chief cities
and restored the various petty princes
whom Bayezid had dispossessed. Of
the great empire won by the valor of
Othman and his successors there re-
mained only scattered fragments con-
tested by rival claimants and existing
only by the sufferance of the Mongol
sultan. The power of the Ottoman
it might well seem, was vanished never
to return.

Note—This paper will be concluded
next week.

EXAMINATIONS AND CERTIFICATES.

At the end of the term of seventeen
weeks, a series of questions on each
course, prepared by Professor Seymour
Eaton, will be published in the Vir-
ginian-Pilot, and blanks containing the
questions will be furnished every sub-
scriber making application for same.
Two weeks will be allowed after the
courses close, for the receipt of exami-
nation papers containing answers.
These papers will be referred to a
Board of Examiners, who will assist
Professor Eaton, and as soon as the
work of examination is complete, the
result will be reported, and certificates
issued to the students entitled to them.

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have not looked after their beds should
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